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Medicare Part D Issues: Timely Services and Medication Coverage Issues

Background--Timely Services

The enactment of the Medicare Modernization Act created new requirements under Medicare Part D. These requirements may have affected the timely availability of medication to treat specific conditions.

Health care providers have the responsibility to meet residents' needs for health and comfort. Timely services are a component of prompt and adequate pharmacy services requirements. The intent of these requirements is to ensure that medications ordered for residents are provided and administered in a timely manner to optimize care and prevent harm to residents. Surveyors evaluate timely services by determining if failure to provide a medication timely, or find other acceptable treatment, causes resident discomfort or endangers resident safety. If there is resident discomfort or endangerment then the requirement to provide timely services is not met. In some cases, facilities have adopted policies requiring medications to be delivered from the pharmacy within certain time frames in an attempt to meet the timely services requirement. Since the requirement for timely services is not based on time frames, policies requiring time frames do not ensure the requirements will be met.

In July 2004, the Bureau of Quality Assurance (BQA) issued [memo 04-018](#) addressing timely services related to medications. This memo was initiated as Medicaid was implementing more comprehensive prior authorization programs and preferred medication lists. These changes required providers to seek changes in medications, or submit information for prior authorization, all of which may have delayed medication delivery. The purpose of BQA memo 04-018 was to

clarify the definition of timely services, and to inform facilities that if medications are not delivered based on a specific time frame, it does not automatically mean services are not provided timely. This allows a facility to have medications delivered on variable time frames to meet the needs of residents.

Timely Services

Since BQA memo 04-018 was issued, the pharmacy environment has changed as a result of Medicare Part D. There has been an increase in the complexity and volume of required medication changes and prior authorizations, and the creation of preferred medication lists. These changes increase the chance that a medication delivery may be delayed. I emphasize again that timely services are not defined by a specific time frame. Timely services are based on assuring residents do not experience discomfort or are not endangered.

As delays of medication delivery occur, a key component to assuring that a resident's needs are met in a timely basis is communication among the facility, the pharmacy and the physician. Facilities that experience delays in medication delivery must continue to meet the resident's needs. That may mean communicating with the physician and pharmacist to determine that a delay in medication delivery will not endanger or cause discomfort to the resident, switching the resident to another medication, or implementing a different care approach. Implementing delivery time requirements will not ensure that a resident's needs are met. Therefore, facilities should not simply rely on time requirements, but instead, ensure that there is clear communication and follow-up with the physician and pharmacist to assure that residents' needs are being met.

The Centers for Medicare and Medicaid recently released some materials related to transition supplies to assist providers after the extended transition supply ended March 31, 2006. These materials can be accessed at:

CMS Fact Sheet: <http://www.cms.hhs.gov/apps/media/?media=fact>

CMS What If Doc "Getting Drugs After Your Transition":
http://www.medicare.gov/WhatIfTransition_option2.pdf

Medication Coverage Issues

- 1) **Leave of Absence Medications:** When residents leave facilities for a vacation, some Part D plans will not pay for a leave-of-absence supply of medications. In these cases, if the appropriately labeled medications have remained in the package received from the pharmacy, the supply of medication can be provided to the resident to take on leave. Facilities should consult with the resident's pharmacy to determine if a leave-of-absence supply is available.
- 2) **New Admission:** When a resident is newly admitted, facilities typically review physician orders for needed medications and request a new supply from a pharmacy. If a resident had the prescriptions recently filled at the same or another pharmacy, the new supply of the same medications may not be authorized by the Part D plan. Often the pharmacy will receive a message from the Part D plan that the medication is being refilled too soon.

Currently, there are no regulations that prohibit a facility from administering the supply of medications left over from the facility or home where the resident previously resided. However, facilities will need to assure that the medications came from a licensed pharmacy and confirm the identity of each medication prior to administering the medications.

- 3) Resident Refusal: A resident sometimes chooses a Part D plan that does not cover some medications the resident needs, and the resident refuses to change plans. In other instances, a resident refuses to meet co-payments or deductibles as required, or a resident simply refuses a medication. Residents have the right to make these decisions. However, these decisions create risks for residents, and the facility should explain those risks to them. It may be necessary to enlist the assistance of the resident's family, physician, the facility's medical director, social worker, pharmacy consultant, or others, as appropriate, to determine the reasons for refusal, and to reduce the potential for negative outcomes to the resident. Alternative treatment options may be considered.
- 4) Appeals: Each Part D plan is required to have a coverage determination exemption, as well as an appeal process to address situations when a resident's medications are not covered. Residents have the right to use these processes. Facilities may need to assist residents with these processes. Each plan should have provided this information to residents. If that information is not available, facilities can call 1-800-MEDICARE to obtain it.

If you have questions about the contents of this memo, please call Doug Englebert, Pharmacy Practice Consultant at (608) 266-5388 or e-mail him at **engleda@dhfs.state.wi.us**.